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ONE METROPOLITAN SQUARE
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ST. LOUIS, MO 63102

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OFFICE OF PETITIONS

In re Application of :
Paula Mary Sosalla et al :
Application No. 09/977,062 : DECISION ON PETITION
Filed: October 12, 2001 :
Attorney Docket No. KCC 4777 :
K-C 17,448 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 20, 2006, which, in view of the circumstances of this application, is being treated as a petition to revive under the unavoidable provisions of 37 CFR 1.137(a).

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 29, 2003. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 30, 2004.

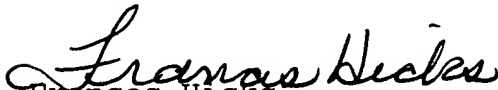
The petition satisfies the requirements of 37 CFR 1.137(a) in that petitioner has supplied (1) the required reply in the form of a Request for Continued Examination (RCE), \$790 filing fee, and submission as required by 37 CFR 1.114; (2) the petition fee of \$700; and (3) a showing to the satisfaction of the Director that the entire delay was unavoidable.

Petitioner's deposit account will be credited \$750, which is the difference between the \$1,500 fee submitted with this petition and the fee required for a petition under the unavoidable provisions of 37 CFR 1.137(a).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,020 extension of time fee submitted with the petition on January 20, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center AU 3761 for processing the RCE and for appropriate action in the normal course of business on the submission under 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.


Frances Hicks
Petitions Examiner
Office of Petitions